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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixtieth session

SUMMARY RECORD OF THE 1495th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 March 2002, at 3 p.m.

Chairman: Mr. DIACONU

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6)

Second and third periodic reports of Switzerland (CERD/C/351/Add.2; CERD/C/304/Add.44; HRI/CORE/1/Add.29/Rev.1)

1. At the invitation of the Chairman, Mr. Michel, Mr. Galizia, Mr. Vigny, Mr. Mattli, Mr. Bühler, Mr. Braun, Ms. Erard, Mr. Pachoud, Mr. Ridoré, Mr. Scyboz, Mr. Spenlé, Mr. Tschudi, Mr. Coquoz, Mr. Gut, Mr. Esseiva, Mr. Facchinetti, Ms. Sambuc and Ms. Yilmaz (Switzerland) took places at the Committee table.

2. The CHAIRMAN congratulated the Swiss people and Government on the results of the referendum and the decision to join the United Nations.

3. Mr. MICHEL (Switzerland) said that in deciding to join the United Nations, the Swiss people did not merely subscribe to the universal objectives and fundamental values of the Organization, but also endorsed Switzerland's firm support for human rights, which had been its position for many years. As its presence in the Committee showed, Switzerland was already cooperating closely with the United Nations.

4. As nearly two years had elapsed since the submission of Switzerland's third periodic report (CERD/C/351/Add.2), in February his Government had forwarded to the Committee a document updating figures and explaining recent legislative developments.

5. In paragraphs 5 and 10 of its concluding observations on Switzerland's initial report (CERD/C/304/Add.44), the Committee had expressed concern about the lack of comprehensive legislation to combat discrimination based on race, colour, descent, or national or ethnic origin. In a country that was proud of its ethnic diversity, the fundamental right to human dignity was of particular importance. Switzerland had always respected the principles of equality and non-discrimination and had acceded to many international human rights conventions, as well as the European Convention on Human Rights, the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities.

6. With regard to the applicability in Swiss law of the International Convention on the Elimination of all Forms of Racial Discrimination, as soon as Switzerland committed itself to applying an international instrument, the latter automatically became part of domestic law, and its provisions immediately became binding for all legislative, executive and judicial bodies; there was therefore no need to pass special legislation. As reaffirmed on many occasions by the Government and the Supreme Court, international law took precedence over federal and cantonal law.

7. In recent years, the Government had given increased attention to the protection of human rights and the prohibition of racial discrimination. Although Switzerland did not have comprehensive legislation at federal level for combating discrimination, that was not a lacuna,

but a special feature of Swiss law, which provided for a distribution of tasks between the Federal Government and the cantons. Once the Convention had been ratified, the Federal Court had begun citing it in its case law.

8. In an effort to ensure implementation of the Convention at federal level, the Swiss Government was working to codify all prohibitions of discrimination in specific areas. For example, article 16 of the federal bill on the transplantation of organs, tissue and cells explicitly provided for equal treatment of foreigners with regard to organ distribution. The cantons, however, remained free to take additional measures to take local circumstances into account.

9. Turning to Switzerland's immigration and integration policy, he noted that in paragraph 6 of its concluding observations, the Committee had expressed disquiet at the "three-circle-model" immigration policy, which classified foreigners on the basis of their national origin. The "three-circle-model" had been abandoned in October 1998. Under the sectoral bilateral agreements, which Switzerland had signed with the European Union in June 1999 and which were to enter into force in May or June 2002, nationals of EU and EFTA member States could claim admission to Switzerland following a gradual transition period. Nationals of all other States might obtain an authorization if they had skills or if special reasons so warranted, provided that the Swiss labour market was unable to fulfil the corresponding employment needs.

10. With regard to Switzerland's reservation to article 2, paragraph 1 (a), of the Convention, since the differences between the treatment of nationals of EU and EFTA member States and nationals of other States were based on bilateral agreements and close economic ties, consideration might in principle be given to withdrawing the reservation. He did not, however, want to anticipate the work of the Parliament, which would soon be examining a bill on a new aliens act for probable adoption by the Federal Council in spring 2002. The new act, which would improve the legal status of foreigners living in Switzerland, would include a set of guidelines for an integration policy designed to promote peaceful coexistence between Swiss and foreign residents, based on the principles of the rule of law and respect for fundamental rights. It would also guarantee that immigrants had equal access to economic and social resources. In 2001, the Federal Government had for the first time set aside 10 million francs for projects to further the integration of foreigners and a further 12.5 million francs would be allocated in 2002.

11. The issue of undocumented aliens had recently arisen in the context of the labour shortage in the agricultural and hotel sectors. Together with the cantons, the Federal Council had decided that legalization of the status of undocumented aliens was not desirable. Experience in other European countries had shown that such a measure merely led to an influx of more clandestine immigrants within months. Moreover, it would run counter to the federal and cantonal legal system and migratory policy. It would create inequalities among the clandestine immigrants themselves and between them and foreigners who abided by the principles of the rule of law. The people of Switzerland was not in favour of such legalization.

12. In general, the cantons were empowered to deal with cases of undocumented aliens, but the Federal Government could intervene on a case-by-case basis for humanitarian reasons. The Government also supported the proposal by the Federal Commission on Foreigners to set up the office of ombudsman in the cantons to assist clandestine aliens.

13. Turning to Switzerland's naturalization policy, he said that a number of legislative amendments were under consideration concerning the right of residence, which was a prerequisite for acquiring Swiss nationality. Currently, the issuance of the right of residence was a political act not subject to any legal control, and it was therefore planned to introduce a right to appeal arbitrary or discriminatory naturalization decisions. Pursuant to a bill on that question, the cantons would also be required to set up a judicial authority to review decisions on naturalization requests. Another objective was to simplify naturalization for young second-generation foreigners. If the bill was passed, third-generation foreigners would acquire Swiss nationality at birth, and the length of time for which applicants for naturalization would need to be domiciled in Switzerland would be reduced from 12 years to 8. Naturalization fees would be lowered so that they merely covered costs.

14. Paragraph 6 of the concluding observations had expressed concern about what had been referred to as serious incidents of police brutality in dealings with persons of foreign ethnic or national origin. In all the cantons, victims were offered various possibilities under civil, criminal and administrative law for introducing a complaint of harassment or other abuse of authority by the police. Any use of force by the police in their contacts with the population was clearly the exception. Figures for the canton of Aargau, for example, showed that of the 1.5 million contacts between the police and the population, only about 50 had given rise to a complaint, not all of which had had to do with the use of force. The Federal Council had issued a number of statements on the use of force at cantonal level and had referred to the question during the presentation of its periodic reports before the Human Rights Committee. Switzerland had also received a visit from the European Committee for the Prevention of Torture.

15. Another important issue was that of repatriation. In recent years, the Federal Government had taken organizational measures to help the cantonal authorities implement legal procedures governing the return of foreigners whose residence permit had expired.

16. In paragraph 8 of its concluding observations, the Committee had referred to incidents of xenophobia, anti-Semitism, racial discrimination and racial violence. The Swiss Government was very concerned about racially motivated incidents which had occurred in recent years. Article 261 bis of the Swiss Criminal Code concerning racial discrimination was an important instrument for combating racism, anti-Semitism and right-wing extremism. Rulings handed down on the basis of article 261 bis had usually taken into account the judgements of cantonal courts. But criteria for identifying racist incidents were not uniform. There had been a very significant increase in the number of cases pursuant to article 261 bis in recent years and in judgements rendered.

17. In response to excesses of certain rightist groups in summer 2000, the Federal Department of Justice and Police had created the "Right-Wing Extremism Interdepartmental Working Group" to consider legal lacunae and shortcomings revealed by those events and to submit recommendations to the Federal Council in autumn 2000. Having taken note of that analysis, the Government had ordered its publication and was working to implement its recommendations. To that end, it had set up a new working group on the "coordination and realization of measures in the area of right-wing extremism". In its report of October 2001, the working group had recommended the insertion in the Swiss Criminal Code of two new provisions punishing distinctive signs of discriminatory attitudes based on race as well as the use

in public of racially oriented slogans, gestures or forms of greeting and outlawing racist associations. The working group had also recommended the introduction of a provision in administrative law on the seizure and confiscation of means of racist propaganda. Regarding the question of financial assistance to victims of racial discrimination, he said that such persons could justifiably be covered by the definition contained in article 2 of the 1991 Act on assistance to victims of crimes.

18. In paragraph 14 of its concluding observations, the Committee had expressed the hope that the Federal Commission against Racism would be given sufficient resources to enable it to work effectively and that other organizations and institutions dealing with race relations would also receive adequate support. He had already referred to the financial assistance that the Federal Government had given to encourage the integration of foreigners. Funding would be made available to support the work of the Federal Commission as well as other bodies.

19. Concerning paragraph 15 of the concluding observations, which noted that the Committee had not yet made the declaration provided for in article 14 of the Convention, he said that on 29 August 2001, the Federal Council had adopted a Message on the recognition of the competence of the Committee to receive and consider communications pursuant to article 14 of the Convention. The National Council had passed the bill by a large majority on 10 December 2001 and a decision by the Council of States was expected in May. Provided that a referendum did not unexpectedly delay the matter, Switzerland should be able to make the declaration under article 14 by the end of summer 2002.

20. Mr. TANG Chengyuan (Country Rapporteur) noted that following the consideration of the previous report submitted by Switzerland, the Committee had in its concluding observations called for constitutional reforms, the adoption of a comprehensive law banning racial discrimination and a policy aimed at the prevention of discrimination, in particular through public information, education and the training of law enforcement officers. It had also urged the Government to review its naturalization policy so as to eliminate elements which classified foreigners on the basis of their national origin, and had recommended that the Government provide information on complaints of discrimination and the measures taken to deal with them.

21. The Government had made progress in bringing legislation into line with the Convention and in improving law enforcement practices. The new federal Constitution was less ambiguous about the equality before the law of all people, including foreigners, and clearly established that no person should be the subject of discrimination because of his or her political or religious beliefs. It also contained provisions aimed at preventing arbitrary treatment. In addition, the Criminal Code had been amended to make incitement to racial discrimination a punishable offence and to provide severe sanctions against racist crimes. It was heartening that international conventions were automatically integrated into Swiss law and took precedence over domestic legislation. It was also worth noting that appeals could be brought before the European Court of Human Rights. He welcomed the fact that the Government was reconsidering making the declaration required under article 14 of the Convention, and commended the adoption of measures to ensure that victims of racial discrimination could lodge appeals against law enforcement officers.

22. While the Criminal Code referred indirectly to racial discrimination in employment, its provisions did not fully address the Committee's concerns, especially in respect of discrimination during recruitment. For example, the Code of Obligations addressed only cases of racial discrimination resulting in unjust dismissal. Additional legislative measures would therefore be required.

23. Both the federal Government and the cantons had established commissions and ombudspersons' offices to deal with racism. Their roles were, however, quite restricted, and they were not empowered to carry out investigations. According to the report, allegations of police brutality were investigated by the police themselves. Had there been any cases of inquiries being blocked? He expressed serious concern at the number of cases of excessive force used by law enforcement officers, in particular border guards, which had sometimes led to injury or even the death of illegal immigrants. The Government should take more effective measures to prevent such occurrences, possibly including the establishment of bodies independent of the police to carry out investigations.

24. Although illegal immigrants violated the law of the host State, they were still entitled to basic human rights and to be treated humanely. There had been reports of illegal immigrants being subjected to inhumane treatment such as receiving forced drug injections and being gagged. While the State party was in its right to take steps against persons who violated the law, it should do so with respect for their personal dignity.

25. "Travellers", i.e. the Roma, were reportedly the subject of discrimination in schooling and employment. While the establishment of a special foundation for that community was a welcome step, it was to be hoped that the Government would pay constant attention to its problems. In 1996, the Government had been quite forthcoming in condemning a surge of anti-Semitism following the scandal involving dormant Jewish bank accounts. However, it and the Swiss media should address the source of such sentiments to ensure that there would be no resurgence.

26. How did the replacement of the "three-circle" naturalization policy model with a "binary admission system" ensure equal treatment of non-European immigrants? Under current policy, the many non-Europeans who had lived in Switzerland for over 10 years, raised their children there and contributed to the country's prosperity would lose their right to stay if they lost their jobs. That issue should be addressed, at least from a humanitarian point of view. The fact that the naturalization procedure gave much decisional power to communal and cantonal governments had led to discriminatory practices. For example, in Emmen, over 20 applicants for citizenship from eastern Europe and other places had been rejected, apparently because of their nationality and religion. Perhaps the procedure should allow for a review of such cases by the federal Government, with a view to countering racial discrimination.

27. Mr. THORNBERRY referring to the definition of "national minorities" applied by the Swiss Government to the Council of Europe's Framework Convention for the Protection of National Minorities, asked whether Switzerland used the same definition in relation with the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities and the International Covenant on Civil and Political Rights. If so, had any of the human rights treaty bodies issued opinions on the subject? It was unclear from the

report whether the "travellers" coincided with the Jenisch or Roma communities, and whether the members of the "traveller" community were Swiss citizens or foreign. The report mentioned an official apology offered by the Pro Juventute Foundation for splitting up traveller families and discriminating against Jenisch people between 1926 and 1973. Had the State in any way been involved in that act of contrition, or had it assumed any responsibility for the policy? Swiss courts reportedly referred increasingly to international human rights conventions in their pronouncements. What place did the Convention have in Swiss jurisprudence? The federal Constitution laid down that there should be no discrimination based on race or origin, but did not mention descent and did not specifically use the word "ethnic" in that regard. Were those concepts covered? The report provided information on measures taken to preserve Switzerland's traditional languages. What had been done to protect the linguistic rights of immigrant communities?

28. While Islamophobia was ostensibly based on religion and not race, it had racial implications and was therefore of concern to the Committee. Could the delegation provide any information on that phenomenon? What was the Government's view of best practice with regard to the wearing of Islamic headscarves? It would be of interest to the Committee to find out whether the State party intended to ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 160) of the International Labour Organization, and if so, how the Government would interpret the term "indigenous peoples" in the case of Switzerland. The delegation should elaborate upon the definition of integration in relation to the ability of foreigners to become a part of the social setting without giving up their own cultural origins and nationality.

29. The "binary admission system" for immigration and naturalization did not appear to be in line with the Convention. Could the delegation offer any information on the possible stigmatization of minorities as a result of racial discrimination? He noted that the section of the report on effective remedies was extremely short, especially in comparison with the overall length of the document. While the report stated that there should be no segregation of Swiss and foreign children in school, it would be of interest to the Committee to hear the delegation's views with regard to the education of Roma children. The Committee had taken the position that they should not be segregated, but that the possibility of bilingual or mother-tongue education must be kept open.

30. Lastly, was Switzerland considering becoming a party to the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization? And would it ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the European Convention on the Legal Status of Migrant Workers and the European Convention on the Participation of Foreigners in Public Life at Local Level?

31. Mr. VALENCIA RODRIGUEZ said that the Convention had special importance for Switzerland because of the demographic, cultural and linguistic diversity of its population. He welcomed the ratification of instruments such as the European Convention on Human Rights and the Framework Convention for the Protection of National Minorities, and the adoption of the

new Constitution, which contained essential provisions opposing racial discrimination. In addition, a single code of criminal procedure was currently being drafted, which would be applicable throughout the country. The Committee would be interested in further developments in that regard.

32. While Switzerland undoubtedly had close links with the members of the European Union and European Free Trade Association, the Government should seriously reconsider whether the "binary admission system" was in keeping with the provisions of the Convention. The Government should eliminate racial criteria in the handling of applicants for immigration and asylum seekers.

33. Bearing in mind what had been said in the Swiss report about the country's implementation of article 2 of the Convention and especially the contents of paragraph 85 of the report, it was to be hoped that Switzerland would soon withdraw its reservation to article 2, paragraph 1 (a), of the Convention.

34. He welcomed the comments made in paragraphs 94 et seq. with regard to two articles of the Criminal Code and the Military Criminal Code, as well as the reference to the abundant case law in paragraph 104. He appreciated the fact that the Federal Court had consistently held that the authorities must disband an organization with legal personality when it pursued an illegal goal. But what of an organization which existed de facto although it had no legal personality? Could it be dissolved? That would seem to be the logical conclusion to be drawn from article 260 ter of the Criminal Code.

35. Turning to compliance with article 5 of the Convention, he asked what the Federal Council's position had been on the question of enfranchising all foreigners who had been resident in Switzerland for at least five years and what progress had been achieved in that direction at the cantonal level. While the steps taken to facilitate the naturalization of young aliens were highly advisable, special attention ought to be paid to the elimination of shortcomings in the naturalization process for adults and of the discriminatory practices referred to in paragraph 275. Moreover, it would appear from paragraphs 197 et seq. that inequalities in the labour sector were leading to double discrimination against foreigners. Measures should also be adopted to prevent breaches of article 5 (f) of the Convention.

36. As for article 7 of the Convention, he believed that the programmes and action described in the relevant section of the report should be continued. The Federal Commission against Racism and the Federal Commission on Foreigners were doing particularly valuable work. On the other hand, the setting up of separate classes for foreign pupils had to be condemned as being contrary to the Convention and the Committee therefore supported the Federal Council's stance on that subject. He requested information about the results of measures to counter the upsurge of racist statements in the press and applauded Switzerland's exemplary moves to prevent the spread of racist sentiments via the Internet. Lastly he noted that Switzerland's response to the Committee's concluding observations constituted an eloquent example of what could be achieved through constructive dialogue.

37. Mr. de GOUTTES commended Switzerland on the regularity with which it submitted its reports, on the quality of the third report and on the wealth of information it contained. He had been particularly interested by the third part of the report, which described the action taken on the Committee's previous concluding observations. Nevertheless he considered that paragraphs 120 to 214 concerning article 5 of the Convention did not distinguish clearly enough between developments relating to rights established by the two United Nations covenants and progress in respect of rights protected by the Convention, whose purpose was not to create rights, but to ensure the enjoyment of those embodied in the covenants.

38. He welcomed the reforms announced by the head of the delegation, especially the possible withdrawal of the reservation to article 2, paragraph 1 (a), of the Convention and Switzerland's forthcoming acceptance of the Committee's competence to receive and consider communications under article 14.

39. Although the Committee had received a wealth of information from several sources, he was still unsure whether Switzerland regarded the Convention as self-executing and requested clarification as to whether any of the Federal Court's decisions had rested on the Convention. Since Switzerland was a federal country in which the principle of subsidiarity applied, he would like the delegation to explain what role the Federal Council played in the fight against racism and what matters came within the jurisdiction of the cantons. In a similar vein, he inquired what part the Federal Commission against Racism had taken in drafting the report and how it assessed the current situation in respect of racism in Switzerland.

40. He noted in passing that some NGOs had criticized the naturalization procedure, where communal bodies could vote on naturalization applications. The Committee would be grateful for further information about that very sensitive issue. Turning to the matter of racist offences mentioned in paragraph 94, he wondered whether the Government had ever contemplated making it a general principle of penal law that racist motives were to be deemed aggravating circumstances. Article 261 bis concerned penal law only and there seemed to be no specific provisions in Swiss law dealing with racial discrimination. Reliance on criminal law alone was not, however, the most effective way to combat racial discrimination in employment, housing or family law and many people were therefore calling for comprehensive legislation on the subject. For that reason, the Committee trusted that the delegation could supply some additional information in that respect. It would also be useful if the delegation could provide more details about the application of article 6 of the Convention by the cantonal courts, since several NGOs had spoken highly of the good practice of those courts in cases involving racial discrimination. Lastly, he asked what steps the Government intended to take to circulate the report and the Committee's concluding observations more widely.

41. Mr. SICILIANOS said that while some references had been made in the report to the special measures prescribed in article 2, paragraph 2, of the Convention, it would have been preferable to devote a separate paragraph to them. He therefore asked the delegation to explain in detail what was being done in theory and in practice to strengthen affirmative action. It would seem from paragraph 78 that Switzerland had a rather idiosyncratic notion of positive discrimination.

42. He observed that most of the court cases brought under article 261 bis of the Criminal Code had been related to allegations of anti-Semitism and, while he by no means underestimated the value of endeavours to counter that form of racism, he wondered whether any other judgements had been handed down on racial discrimination against other minorities or categories of persons.

43. Paragraph 205 of the report seemed to indicate that the Swiss Government itself was worried about the restriction of medical services available to asylum-seekers and he would therefore like to have more information on that subject, especially as that issue had been raised in several documents received from NGOs.

44. In the report he had been unable to find any reference to any court decisions imposing penalties for the police brutality mentioned by the head of the delegation and so he asked the delegation whether sentences had been passed on any of the offenders.

45. He was curious to know if there had been any change in Swiss thinking on the reasons behind its reservation to article 4 of the Convention and whether Switzerland might be prepared to reconsider its position in that respect. Lastly, he requested more up-to-date information on the practice of establishing separate schools for foreign pupils, in view of the fact that the Federal Court was opposed to the very principle of such schools.

46. Mr. PILLAI said that the comprehensive nature of the third part of the report reflected the serious attention Switzerland paid to the Committee's recommendations. He welcomed the news that the country was going to make a declaration under article 14 of the Convention. Such a declaration would entail the establishment of mechanisms enabling victims to turn to national courts to obtain redress for complaints of racial discrimination.

47. He would appreciate detailed information about any links forged between the Federal Commission against Racism and the judiciary, because in any country the criminal justice system was one of the basic pillars upholding the promotion and protection of human rights. Similarly he wondered if the Government was thinking of giving the Federal Commission against Racism any powers to investigate allegations of racism. Again in the context of the judiciary, he asked the delegation to elaborate on the statement in paragraph 42, concerning decisions with regard to religious minorities, that "the case law of the Federal Court was habitually characterized by tolerance". He likewise inquired whether the courts had the power to take suo moto cognizance of violations of human rights and to pass sentence on offenders.

48. Paragraph 73 of the report spoke of the setting up of a national human rights agency and, in that connection, he wished to remind the delegation that any human rights machinery set up at the national level should comply with the Paris Principles. Finally he requested more details about the conditions on which foreigners could enjoy the right to stand for election in certain cantons.

49. Mr. AMIR, while commending Switzerland on its objective and informative report, said that some matters nonetheless required clarification. Referring to paragraphs 153-155 of the report, he asked whether there were any plans to remove current restrictions on the freedom of

movement of foreigners in Swiss territory, particularly with a view to Switzerland's future membership of the United Nations and the need for compliance with its Charter in that respect. According to his understanding of paragraph 158, stateless children could acquire Swiss nationality but the same did not necessarily apply to their parents. Perhaps in such matters further consideration should be given to the importance of family unity. He queried the use of the words "eternally" and "eternal rest" in paragraph 179. Referring to paragraphs 182-4, he requested further information on the situation with regard to the wearing of the Islamic headscarf in Switzerland and its institutions.

50. Mr. LINDGREN ALVES endorsed the comments of previous speakers about Switzerland's recent referendum and the quality and shortcomings of the report. He was among those who feared that uncontrolled globalization and the promotion of new and liberal economic policies would undermine achievements made in the sphere of basic human rights thus far, not in terms of international cooperation but at national level. He had received a letter from a group of asylum-seekers who alleged that the basic allowance provided by the authorities was not sufficient to meet their basic needs, yet in their canton of residence they were not allowed to supplement it with occasional work. How could that be reconciled with the assertion in paragraph 211 of the report concerning the 1995 Federal Supreme Court's decision that minimum conditions of existence should be recognized as an unwritten constitutional right - a decision which had apparently resulted in a study by the Council of Europe's Steering Committee for Human Rights.

51. Mr. FALL said he welcomed Switzerland's decision to join the United Nations - an organization to which it had already contributed significantly in the past. He was encouraged to hear that the Government was preparing to make the declaration under article 14 of the Convention, and that there was greater public support for recent legislation to combat racial discrimination. Those two factors augured well for the proper implementation of the Convention in Switzerland in future. He nonetheless questioned the appropriateness of the heading of section III, "Measures to make certain acts of racial discrimination publishable by law", pointing out that the Convention covered all acts of racial discrimination. He also queried the wording of article 261 bis of the Criminal Code quoted in paragraph 98 of the report. It was not solely a question of public incitement to hatred or discrimination; any incitement, public or private, could harm human dignity. With regard to the allegations of brutality by law enforcement officials, particularly during repatriation, had the Government taken any steps to prevent such practices, for instance through appropriate training? In conclusion, he asked for further information on draft legislation relating to the status of foreigners in Switzerland, specifically whether such legislation would draw distinctions between different countries of origin.

52. Mr. HERNDL asked for more information on the outcome of proceedings before the Federal Court brought by a Geneva primary school teacher, who was requested to stop wearing the Islamic headscarf at work (para. 182 of the report). Concerning naturalization and integration matters, he welcomed the prospect of greater judicial control at cantonal level, through the establishment of courts to deal with appeals relating to applications for citizenship. To be sure, the granting of citizenship must be a voluntary act, but one which nonetheless required certain criteria and legal procedures, with due regard for the principles of proportionality and arbitrariness.

53. As for the so-called "circles", he did not see them as a hidden form of racism or discrimination. On the whole he considered the new legislation and further amendments envisaged in that respect to be in line with recommendations made in the Committee's concluding observations concerning Switzerland's initial report (CERD/C/304/Add.44).

54. Mr. ABOUL-NASR said that Switzerland had an excellent human rights record, not least on account of the admirable activities of the International Committee of the Red Cross and Red Crescent, which fortunately remained independent of international politics. It was significant that Switzerland had decided to join the United Nations at a time when countries in his region were contemplating just the contrary, on account of dominance by one super-Power and the inability of the Security Council to take key decisions on serious issues during armed conflicts. He would therefore be interested to hear some of the arguments put forward by those in Switzerland who had been opposed to membership of the United Nations.

55. Mr. YUTZIS said that Switzerland's decision to join the United Nations would indeed be mutually beneficial. In the light of that decision the present dialogue with the Committee was a historic occasion and the Swiss delegation was therefore duty-bound to explain to the Committee exactly why at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance during the debate on the draft programme of action it had changed its position on the subject of descent. Although the matter was not directly linked to the consideration of Switzerland's report, it would be raised in future by the Committee, considering that vast sectors of the world's population suffered racial discrimination on account of their origin or descent. He would therefore welcome an explanation of Switzerland's views on the subject.

56. The CHAIRMAN noted that for the reporting country the existence of a federal system posed certain problems. However as far as the Committee was concerned Switzerland was one State which was subject to international law and the federal system could not be used as a pretext for failure to comply with the Convention. Also as a wealthy nation Switzerland was a country of immigration, which entailed certain obligations. Moreover, for historical reasons it had always been a multicultural society faced with the problem of minorities and different ethnic groups. He took it that the delegation would need some time to prepare replies to the many questions raised. He suggested, however, that it reply forthwith to Mr. Aboul-Nasr's question concerning the recent referendum, since it did not strictly speaking come under the sphere of competence of the Convention.

57. Mr. NICOLAS (Switzerland) said that one of the main arguments put forward against joining the United Nations related to the question of Swiss neutrality. It was feared that Switzerland would be obliged to provide troops for operations under article 7 of the Charter of the United Nations. However, that was clearly a misinterpretation of the relevant provisions and established United Nations practice. A further concern had been that the sovereignty of Switzerland would in some way be undermined; the Government had explained that in such international forums a State party was better able to defend its sovereign rights. Some considered the right of veto by permanent members of the Security Council to be somewhat undemocratic, but attention had been drawn to analogies with the Swiss federal system. Others felt that membership of the United Nations would make Switzerland more vulnerable to the wishes of the super-Powers which played a major role in the international forum. Additional but

more minor concerns related to the consequences of general embargoes and financial considerations. With regard to the latter, it had been pointed out that little extra expense would be entailed for Switzerland, which had already been contributing to the United Nations for many years. The delegation was glad that the Swiss population had not been swayed by such arguments - in time it would be realized that those fears were unfounded.

58. The delegation of Switzerland withdrew.

ORGANIZATIONAL MATTERS AND METHODS OF WORK (agenda item 3) (continued)

59. The CHAIRMAN informed the Committee that the Republic of Botswana had submitted its overdue report. A communication had also been received from the Tunisian Government to the effect that it would be submitting its overdue report shortly. He took it that the Committee wished to defer consideration of those reports to a subsequent session. He invited Committee members to consider how best to use the time allotted during the current session for the review of those countries' reports under the Committee's review procedure.

60. It was so decided.

The meeting rose at 5.55 p.m.